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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,694	04/25/2000	William James Gilbert JR.	990474 U1 USA	9139

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EXAMINER

SMITH, KIMBERLY S

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/558,694

Applicant(s)

GILBERT ET AL.

Examiner

Kimberly S. Smith

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-24 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-19 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 05 March 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The corrected or substitute drawings were received on 03/05/02. These drawings are accepted.

### ***Response to Arguments***

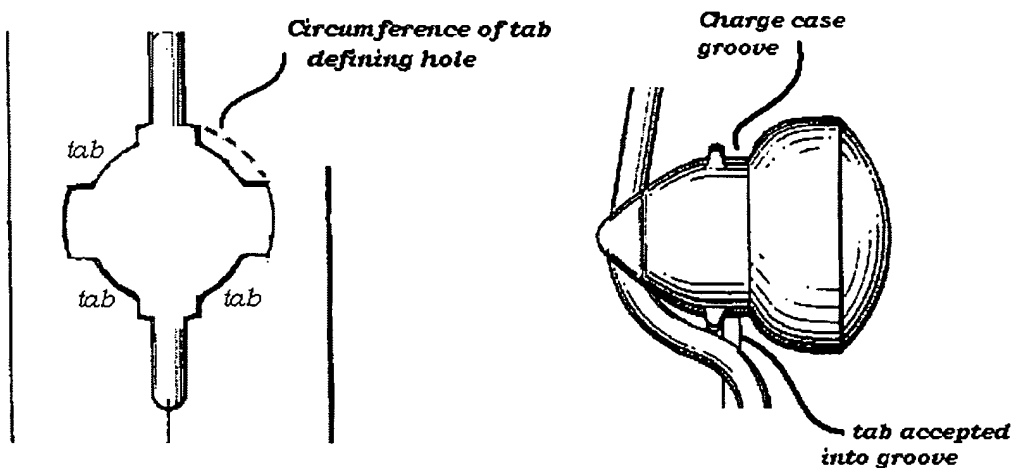
2. Applicant's arguments filed 03/05/02 have been fully considered but they are not persuasive.

3. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The Applicant states that "absent [ ] pointing out some teaching or incentive in the cited prior art to make use of a tab designed in to the circumference of a hole in a loading tube, one of ordinary skill in the art would not be led to modify Blair in view of Parrott". However, as can be seen by the detail below, Blair in fact discloses a charge holder comprising at least one hole disposed through a wall of the loading structure wherein the hole has a circumference defining at least one tab. Parrott is brought in for the sole purpose of teaching the use of a tube instead of the strip as disclosed by Blair. Given that there is motivation (i.e. to use the shape charge carrier with a perforating gun) to modify the strip of

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Blair with the tube taught by Parrott, the use of hindsight is proper and therefore the rejections are maintained.

4. Further regarding claims 18 and 19, Blair discloses a groove in the charge case for accepting a tab wherein the groove is part of the charge case and the tab is part of the circumference of the hole. As Blair discloses these limitations, there is no need to point out some teaching or incentive to make use of a tab designed into the circumference of a hole in a charge holder. Therefore the rejection to claims 18 and 19 are maintained.



*Claim Rejections - 35 USC § 103*

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

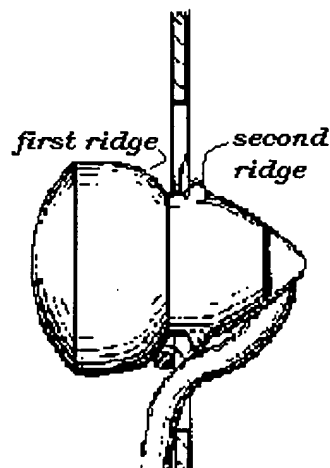
6. **Claim 1-3, 5-7 and 8-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Blair, US Patent 3,078,797 (Blair) in view of Parrott, US Patent 5,862,758 (Parrott).

Blair discloses a charge holder (10) for accepting a case (12), the charge holder comprising a loading member including at least one hole disposed through a wall of the loading member (seen in figure 2), the hole having a circumference defining at least one tab (see detail below).

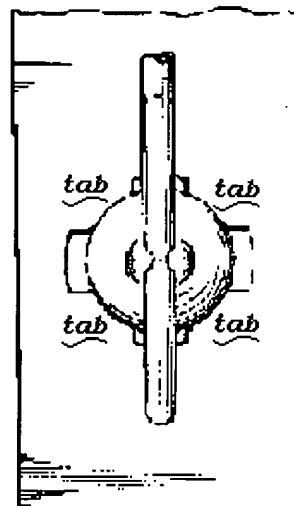
However, Blair does not disclose that the loading member is tubular in shape. Parrott teaches within the same field of endeavor a charge holder having a tubular dimension for the purpose of allowing the holder to be used with a perforating gun. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the strip member disclosed by Blair with the tubular charge holder taught by Parrott in order to use the shape charge carrier of Blair with a perforating gun.

**Regarding claim 2**, Blair discloses the charge holder having a rear ridge (19).

**Regarding claim 3**, Blair discloses a first and second ridge defining a groove between wherein the tab can be captured within the groove (see detail below).



**FIGURE 1**



**FIGURE 2**

**Regarding claim 5**, Blair discloses a cord retainer (seen in figures) for retaining a detonation cord (25).

**Regarding claim 6**, Blair discloses the circumference having a diameter approximately equal to the diameter of the first ridge.

**Regarding claim 7**, Blair discloses the tab having a length approximately equal to a depth of the groove.

**Regarding claims 8-17**, Blair in view of Parrott teaches the invention and the method of use substantially a claimed (as detailed above) including a charge holder used in conjunction with a perforation gun. However, Blair in view of Parrott does not teach a cover for use over the charge holder. It would have been an obvious matter of design choice to use a cover over the charge holder taught by Blair in view of Parrott since it is well known in the art that placing a cover over a charge protects the integrity of a charge and it appears that the invention would work equally as well without the cover since it is further known (as seen in the abstract of

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Parrott) that with the insert and twist type of charge loading tube that a cover is not necessary to hold the shape charge to the loading tube.

**Regarding claim 18**, Blair discloses loading a carrier holder with an explosive charge as claimed whereby the case is rotated to capture the tab within the groove and the method step of attaching a detonation cord. Blair further discloses in column 1, lines 9-30 that the device is lowered into a well and the charge is detonated to complete a well.

**Regarding claim 19**, while Blair does not disclose placing a cover over the charge holder, it is held that the cover is an obvious matter of design choice and would therefor have been obvious to one of ordinary skill in the art to place a cover over the charge holder before lowering the carrier holder into the well if such a design choice were made.

#### ***Allowable Subject Matter***

7. Claims 20-24 are allowed.
8. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, if claim 4 were to be rewritten in independent form, the new independent claim would be a duplication of new claim 20.

#### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

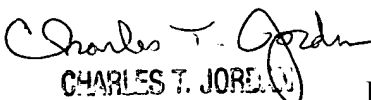
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is 703-308-8515. The examiner can normally be reached on Monday thru Friday (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703-308-4611. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4196 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

  
CHARLES T. JORDAN  
SUPERVISOR  
TECHNOLOGY CENTER 3600  
Kimberly S. Smith  
Examiner  
Art Unit 3644

kss

March 12, 2002